

**IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC.  
AT RANEBENNUR.**

**PRESENT: Smt. Anitha O.A., B.A., L.L.M.,  
Prl. Civil Judge & JMFC,  
Ranebennur**

**Dated 18<sup>th</sup> day of July 2024**

**O.S. No.296/2022**

Plaintiff:- Deepa D/o Hanumantappa Katenahalli,  
Age: 29 years, Occ: Household work,  
R/o. Choudeshwari Nagar, Ranebennur,  
Tq: Ranebennur, Dist: Haveri.

[By Sri. M.S.H., Advocate]

**-V/s-**

Defendant:- Malatesh S/o Hanumantappa Katenahalli,  
Age: 36 years, Occ: Agriculture,  
R/o. Kajjari, Tq: Ranebennur,  
Dist: Haveri.

[Dft. By Sri. V.S.M., Advocate]

**I.A. No. I**

Plaintiff/Applicant :- Deepa D/o Hanumantappa Katenahalli,

V/s

Opponent:- Malatesh S/o Hanumantappa Katenahalli,

### **ORDERS ON I.A. NO.1**

The applicant/plaintiff has filed I.A. No.1 U/O.39 Rule 1 and 2 of CPC for the relief of temporary injunction restraining defendant or anybody on behalf of him from obstructing the plaintiff's peaceful possession and enjoyment over the suit schedule property till pending disposal of the suit.

2. In the accompanying affidavit, it is submitted that, suit schedule property bearing RCC house No.1290/2, to the extent of 1157 Sqr. ft. carved out of Re.Sy. No. 785 e Plot No. 20 R.C.C. measuring 01 gunta 1 Aana(9X12 Mtr.) bounded by East: Re.Sy. No. 785, West: Government road, North: plot No. 19 and South: Re.Sy. No. 785/1 is originally purchased by mother of plaintiff by name Renuka Katanahalli through Registered Sale Deed dated 13.05.2003 for the sale consideration of Rs. 44,000/-. Since the date of purchase the plaintiff and her mother are in possession of the same as absolute owners. The said Renuka Katenahalli was died on 30.10.2022 at Chigateri Hospital, Davangere leaving behind the plaintiff as sole legal heir. After her demise, when the plaintiff verified the documents pertaining to the suit schedule property, it is found that, the name of the defendant falsely entered in the documents. When plaintiff asked the defendant about the said false entries on 15.11.2022, the defendant refused to delete his name in the records.

3. The plaintiff is in possession of the suit schedule property, the defendant who is no way concern to the suit schedule property intentionally trying to interfere with the plaintiff's peaceful possession over the same. Hence, this suit and application.

4. On the other hand, the defendant filed objection by way of written statement. By denying plaintiff and application averments contended that, the mother of plaintiff i.e., Renuka W/o Hanumantappa Katenahalli is non other than sister of this defendant. Plaintiff and defendant are the members of same family. After separation from marital house, the said Renuka Katenahalli used to reside with her parents. The defendant is working at Bengaluru, he used to send money for family necessities. Such being the situation, in the year 2003 the family members decided to purchase property. As this defendant is working in the private sector and no time to attend the Sale proceedings, the family members decided to purchase the property in the name of mother of plaintiff. Further, the said Renuka Katenahalli agreed to transfer the said property in the name of defendant when ever the time permits. Accordingly, in the year 2007, said Renuka Katenahalli executed consent deed and entered the defendant name in the property documents. Since then the plaintiff and defendant are jointly residing in the suit schedule property. The plaintiff along with family members have agreed to leave the property in favour of defendant after her marriage.

5. Further it is contended that the plaintiff with an intention to grab the property, filed this suit by suppressing the facts. Further, the plaintiff falsely stated that the name of her grand father as her father name, not included her brothers in the present suit. Hence, the suit of the plaintiff is bad for non-joinder of necessary parties, which is liable to be dismissed.

6. I have heard the arguments of both sides and perused the entire records. Based on the averments of the application and written statement, the points that arise for consideration of this court are:

### **POINTS**

1. Whether the plaintiff has made out prima-facie case in her favour ?
  2. Whether the balance of convenience lies in favour of the plaintiff?
  3. Whether the plaintiff would suffer irreparable loss and injury if the temporary injunction is not granted as prayed by her ?
  4. What order ?
7. My answer to the above points are as under:-

|                    |                             |
|--------------------|-----------------------------|
| <b>Point No. 1</b> | <b>: In the Negative</b>    |
| <b>Point No. 2</b> | <b>: In the Negative</b>    |
| <b>Point No. 3</b> | <b>: In the Negative</b>    |
| <b>Point No. 4</b> | <b>: As per final order</b> |

**for the following:**

**::REASONS::**

8. **Points No.1 to 3:-** As these points are interlinked with each other, to avoid repetition of facts, they are taken together for discussion.

9. It is specifically averred by the plaintiff that, the suit schedule property is belongs to her mother. After her demise, she is in possession of the same as absolute owner. The defendant who is no way concern to the property, illegally entered his name in the records. Taking advantage of the same, causing obstruction to the plaintiff's peaceful possession and enjoyment over the suit schedule property. On the other hand the defendant contended that, he and plaintiff are the members of same family. As per the consent deed executed by plaintiff's mother, his name has been entered in the records. The said property purchased by the family members with financial assistance of defendant in the name of Renuka Katenahalli. By suppressing the same, filed this false suit.

10. To substantiate her version, the plaintiff has furnished documents such as RTC extract bearing Re.Sy. No.785/E/20 dated 17.11.2022 situated at Ranebennur, copy of CTS No. 1290/2, copy of Sale Deed, RTC extract bearing Re.Sy. No.785/E/20 dated 20.03.2007, copy of death certificate of Renuka Katenahalli, copy of genealogical tree, copy of ration card, RTC extract bearing Re.Sy. No.785/E/20 dated 19.08.2009, photos and copy of encumbrance certificate. On the other hand, defendant furnished documents such as copy of genealogical tree,

details of family members selected under Ayushman Bharath scheme, voter information slip, copy of Indane gas service book standing in the name of Renuka Katenahalli, copy of legal notice and copy of registered agreement deed.

11. On keen perusal of documents furnished by the both the parties, it is found that, admittedly the suit schedule property purchased by the said Renuka Hanumantappa Katenahalli on 13.05.2003 through Registered Sale Deed and admittedly as on the date of suit the suit schedule property is standing in the name of mother of plaintiff and defendant. The said Renuka Hanumantappa Katenahalli i.e., mother of plaintiff died on 30.10.2022 as per the death certificate furnished by the plaintiff. The documents such as electrical bills and copy of gas connection book are still standing in the name of said Renuka Hanumantappa Katenahalli. Accordingly, it is very much clear that though the name of the defendant is entered in the documents of suit schedule property, the electrical and gas connection obtained in the name of Renuka Hanumantappa Katenahalli.

12. The defendant categorically contended that the plaintiff without impleading other legal heirs of deceased Renuka Hanumantappa Katenahalli, filed this suit. Further, the plaintiff wrongly mentioned her father name as Hanumantappa Katenahalli, who is her grand father. On perusal of genealogical tree furnished by the plaintiff, it appears that the

father name of plaintiff is Hanumantappa Yallappa Katenahalli. But, in the documents furnished by the defendant i.e., in voter information slip, the father name of the plaintiff shown as Malathesha, in the genealogical tree of defendant's family, it is found that the Hanumantappa Katenahalli is non other than the father of Renuka Hanumantappa Katenahalli and defendant. Here is there is no clarity with regarding relationship between the plaintiff and defendant. However the defendant admitted that the plaintiff belongs to his family.

13. It is specific case of the plaintiff that the defendant is trying to obstruct her possession over the suit schedule property. But, the documents clearly show that the defendant is also co-owner of the suit schedule property as per the disputed consent deed executed by the mother of plaintiff on 04.05.2007 and the documents still stand in the name of Renuka Hanumantappa Katenahalli and defendant. The plaintiff has not furnished sufficient documents to show that as on the date of suit she is in possession of the suit schedule property. The photos furnished by the plaintiff show that the plaintiff is standing before the disputed property, but, it is not suffice to show her possession over the suit schedule property. Whether the defendant has illegally entered his name in the documents and the legality of alleged consent deed said to be executed by Renuka Hanumatappa Katenahalli are yet be decided only on merits. At this stage, court has to consider the prima-facie case and balance of convenience which has to be made out by the plaintiff.

Though the plaintiff furnished the documents pertaining to the suit schedule property, but prima-facie failed to made out her possession over the suit schedule property and alleged interference by the defendant. Hence, the question of balance of convenience and hardship does not arise. Accordingly, I answer **Point No.1 to 3** in the **Negative**.

14. **Point No. 4:-** Based on the above reasons and discussions, I proceed to pass the following:-

**::ORDER::**

IA No.I filed by the plaintiff under Order 39 Rule 1 and 2 is hereby dismissed.

No order as to costs.

(Dictated to the stenographer directly on the computer, typed, printout taken by him and corrected and then pronounced by me in the open court on this the 18<sup>th</sup> day of July 2024.)

Sd/-

(Anitha O.A.)  
Prl. Civil Judge & JMFC.,  
Ranebennur.